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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,538	06/26/2003	Anders Magnusson	12389-004001 / PD53566US0	5773
26191 7590 01/03/2007 FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/03/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/606,538

Applicant(s)

MAGNUSSON, ANDERS

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10,66-68 and 72-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,66-68,72-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed October 10, 2006 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding the prior art of Brennen: Applicant argues that because pull wire 12 is attached to a lever that is not part of ring member 32, that the pull wire is not attached at its proximal end to member 32. Examiner disagrees. Pull wire 12 is attached to lever 34, which is attached to ring member 32, thus pull wire 12 is attached at its distal end to ring member 32. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the at least one member is directly attached to a ring member) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to applicant's arguments regarding the prior art of Maloney: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The prior art of Brennen teaches the limitation of an elongate member having a proximal end attached to a ring member, thus the prior art of Maloney need not teach that limitation.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 8-10, 66-68 and 73-75 are rejected under 35 U.S.C. 102(b) as being anticipated by Brennen et al (WO 93/04724).

With respect to **Claim 1**: Brennen teaches a steerable stylet assembly comprising a tubular body 10 having a distal region 22, ring member 32 that encircles at least a portion of the circumference of tubular body 10 and is slidable along said tubular body, and elongate pull wire 12 having a proximal end in proximal section 14 and a distal end in distal section 16. The distal end of pull wire 12 is fixedly attached (i.e. coupled) to said tubular body at said distal end 22. The proximal end of pull wire 12 is attached to the ring member 32 via its interconnection with lever 34 and clip 36, said lever 34 having a free end attached to slidable member 32.

With respect to **Claim 2**: Tubular member 10 includes an inner lumen, an outer surface and first and second apertures 18 and 20 (pair of openings) passing between the outer surface and the inner lumen. Pull wire 12 (elongate member) is attached at the distal end 22 of tubular body 10 and extends loosely outside said lumen for a predetermined distance, therefore also extending through said apertures. Thus the coupling of said second elongate member to the distal region of said tubular body comprises the second elongate member passing through the pair of openings.

With respect to **Claim 3**: As can be seen in Fig. 1, the pull wire passes between said ring member 32 and said pair of openings 18,20.

With respect to **Claim 8**: Brennen teaches clip 36 (connector piece) attached to slidable member 32 which is itself attached to a proximal region of tubular body 10.

With respect to **Claim 9**: The distal region of tubular body 10 is flattened between the openings 18,20 to provide a predetermined bias to curve away from wire 12 as the wire is drawn taut between said openings. This section of the distal region of body 10 between said openings has a first stiffness and the remainder of the body 10, i.e. the proximal region, has a second stiffness, wherein the first stiffness is less than the second stiffness.

With respect to **Claim 10**: The section of tubular body between said openings 18,20 defines a first stiffness from the distal end 22 to opening 18 immediately adjacent the proximal region having a second stiffness.

With respect to **Claim 66**: Brennen teaches a steerable stylet assembly comprising a tubular body 10 (first elongate member) having a distal region 22, ring member 32 (protruding member) that extends outward from an outer surface of body 10, encircles at least a portion of the circumference of said body, and is slidably coupled to said tubular body, and elongate pull wire 12 (second elongate member) having a proximal end in proximal section 14 and a distal end in distal section 16. The distal end of pull wire 12 is fixedly attached (i.e. coupled) to said tubular body at its distal end 22. The proximal end of pull wire 12 is attached to the ring member 32 via its interconnection with lever 34 and clip 36, said lever 34 having a free end attached to slidable member 32.

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With respect to **Claim 67**: Tubular member 10 (first elongate member) includes an inner lumen, an outer surface and first and second apertures 18 and 20 (pair of openings) passing between the outer surface and the inner lumen. Pull wire 12 (second elongate member) is attached at the distal end 22 of tubular body 10 and extends loosely outside said lumen for a predetermined distance, therefore also passing through said apertures. Thus the coupling of said second elongate member to the distal region of the first elongate member comprises the second elongate member passing through the pair of openings.

With respect to **Claim 68**: As can be seen in Fig. 1, the pull wire (second elongate member) passes between said protruding member 32 and said pair of openings 18,20 along the outer surface of tubular body 10 (first elongate member).

With respect to **Claim 73**: Brennen teaches clip 36 (connector piece) attached to slidable member 32 which is itself attached to a proximal region of tubular body 10 (first elongate member).

With respect to **Claim 74**: The distal region of tubular body 10 (first elongate member) is flattened between the openings 18,20 to provide a predetermined bias to curve away from wire 12 as the wire is drawn taut between said openings. This section of the distal region of body 10 between said openings has a first stiffness and the remainder of the body 10, i.e. the proximal region, has a second stiffness, wherein the first stiffness is less than the second stiffness.

With respect to **Claim 75**: The section of tubular body 10 (first elongate member) lying between said openings 18,20 defines a first stiffness from the distal end 22 to opening 18 immediately adjacent the proximal region having a second stiffness.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennen et al (WO 93/04724) in view of Maloney et al (U.S. Patent No. 4,906,230).

With respect to **Claim 7**: Brennen teaches a stainless steel pull wire and therefore does not teach single length of thread. Maloney teaches a steerable catheter employing a mechanism comprising a string-like element, e.g. chord, suture or cable or the like. ('230, Col. 2, lines 28-32) The wire taught by Brennen is considered herein to be a string-like element as taught by Maloney, and Maloney teaches that a suture (thread) is equivalent to a chord or cable (e.g. a wire). Therefore it would be obvious to one of ordinary skill in the art to substitute a thread for the wire taught by Brennen with a reasonable expectation of success.

With respect to **Claim 72**: Brennen teaches a stainless steel wire for pull wire 12 (second elongate member) and therefore does not teach single length of thread. Maloney teaches a steerable catheter employing a mechanism comprising a string-like element, e.g. chord, suture or cable or the like. ('230, Col. 2, lines 28-32) The wire taught by Brennen is considered herein to be a string-like element as taught by Maloney, and Maloney teaches that a suture (thread) is equivalent to a chord or cable (e.g. a wire). Therefore it would be obvious to one of ordinary skill

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in the art to substitute a thread for the wire taught by Brennen with a reasonable expectation of success.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
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December 18, 2006

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

